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The Temple of Peace
The Hague Peace Conferences, Andrew Carnegie and the Building of the Peace Palace
(1898-1913)

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The surprising action of the first Hague Conference gave me intense joy. Called primarily to consider disarmament (which proves a dream), it created the commanding reality of a permanent tribunal to settle international disputes. I saw in this the greatest step towards peace that humanity had ever taken, and taken as by inspiration, without much previous discussion. – Andrew Carnegie²

1. Opening the doors to the Temple of Peace

For the opening of the Peace Palace at The Hague, the Carnegie Foundation had organised two days of events. On 28 August 1913, the official opening ceremony took place. This was, except for the number and the quality of the audience, a rather modest affair. In front of the more than 400 invited guests, the chairman of the Carnegie Foundation, Abraham van Karnebeek (1836-1925) presented the chairman of Administrative Council of the Permanent Court of Arbitration, the Dutch Minister of Foreign Affairs René de Marees van Swinderen (1860-1955), with the keys to the Palace. After a musical intermezzo, both chairmen held a brief address. Afterwards, the guests were given a tour of the building. Among the guests were numerous representatives of Dutch and local authorities, the *corps diplomatique* at The

¹ The author wants to express his gratitude to Jeroen Vervliet, Director of the Peace Palace Library for his useful insights and to the staff of the Peace Palace Library and the Carnegie Foundation Archive for their invaluable help, as well as to Shavana Musa (Tilburg University) for her help with the research for this essay.

² Andrew Carnegie, *Autobiography of Andrew Carnegie with Illustrations* (London, 1920) 283.

Hague, members of the Permanent Court and many old hands of the peace movement, who were already at The Hague for the annual Universal Peace Conference which the Dutch peace society 'Vrede door Recht' had hosted from 18 to 23 August. The young Queen Wilhelmina (1880-1962) graced the ceremony with her presence. But the true guest of honour was the American steel magnate turned philanthropist and self-styled 'apostle of peace' Andrew Carnegie (1835-1919), whose lavish \$ 1,5 million gift had made the building of the Peace Palace possible. The day was concluded with a gala dinner at the *Ridderzaal* in the town centre and a reception at the royal palace Noordeinde.³

At the instigation of one of its members who wanted to give the event more public exposure, the Board of Directors of the Carnegie Foundation had extended the festivities into a second day with a garden party on the palace grounds.⁴ On that day, Carnegie unveiled a bust of his old friend and *companion the route* in the fight for peace, the British politician sir William Randal Cremer (1828-1908), who had been one of the founders of the Inter-Parliamentary Union as well as the International Arbitration League. After having praised Cremer for his endeavours in the cause of peace, Carnegie used this opportunity, as he was wont to do, to reiterate his idea for a League of Peace and invoked the German Emperor Wilhelm II (1859-1941), whom he had visited at Berlin in June, to convene a new international peace conference.⁵

In his speech the previous day, Van Karnebeek had stressed that the Peace Palace should not remain home to only the Permanent Court of Arbitration but that more tribunals should be vested there in the future. Thanks to its library, it would also become a centre for those who, through the study of international law, strove for the unity of the 'civilised nations'. Lastly, it would become a centre for visitors and pilgrims from all over the world who believed in the eradication of war. In this sense, it would become – with the name of the edifice Carnegie preferred – 'un Temple de Paix, où, même lorsque les flots de la guerre montent à l'horizon, les aspirations meilleures trouveront un refuge pour pouvoir, comme les

³ Arthur Eyffinger, *The Peace Palace. Residence for Justice – Domicile of Learning* (The Hague, 1988) 110-11; A. Lysen, 'History of the Carnegie Foundation and of the Peace Palace at The Hague', *Bibliotheca Visseriana Dissertationum Ius Internationale Illustrantium*, 28 (1934) 108-10.

⁴ Minutes of the Meeting of the Carnegie Foundation's Board of Directors, 6 May 1913, THE HAGUE, Peace Palace Library, Carnegie Foundation Archive.

⁵ Andrew Carnegie, *Unveiling of Cremer Bust in the Palace of Peace at the Hague: Address by Andrew Carnegie* (Dumferline, 1913); David Nasaw, *Andrew Carnegie* (New York, 2006) 773.

colombes de l'arche, reprendre leur vol après la tempête.'⁶ Whereas these words may sound unfortunate in light of the Great War that would erupt less than a year later, they were prophetic for the Peace Palace's future at the centre of a new attempt at world legal order after the conflagration of 1914-1918. Although the Netherlands found itself in conflict with the Allied and Associated Powers over its refusal to extradite Wilhelm II at the time, it was never really in doubt that the new world court, the Permanent Court of International Justice, would be housed at the Peace Palace.⁷ The decision to do this sealed the city's future as the 'legal capital of the world'.

Over recent years, some writers have tried to support the city of The Hague's claim to be the world's legal capital by referring to its long historic role in international law and peace-making. Its role as a centre of diplomacy and peace-making during the heyday of the Dutch Republic as a great power and its connection to the Dutch 'international lawyers' Cornelius van Bynkershoek (1673-1743) and, above all, Hugo Grotius (1583-1645), are among the arguments most cited.⁸ Such references are, however, nothing but attempts at myth-making and instances of 'Hague-iography', which add nothing to explaining how and why The Hague became the world's main centre of international adjudication and arbitration. The historical explanation for this has very little to do with The Hague's role in early-modern diplomacy or with Grotius – although the myth of Grotius which still stands tall among present-day international lawyers is to a large extent a product from the period of the Hague Peace Conferences and the Peace Palace.⁹ It were the fortuitous choice of the Russian Tsar Nicholas

⁶ Abraham van Karnebeek, *Discours à l'occasion de l'ouverture du Palais de la Paix*, 28 août 1913 (The Hague, 1913).

⁷ James Brown Scott, *The Project of a Court of International Justice and Resolutions of the Advisory Committee of Jurists* (Carnegie Endowment for International Peace, Division of International Law, Pamphlets 35; New York, 1920).

⁸ Peter van Krieken and David McKay, 'Introduction' in Peter van Krieken and David McKay (eds.), *The Hague: Legal Capital of the World* (The Hague, 2005) 3-28 at 1-6; Arthur Eyffinger, 'Living Up to A Tradition' in *idibem*, 29-45 at 29-30, 37; *idem*, *The 1899 Hague Peace Conference. The Parliament of Man, the Federation of the World* (The Hague/London/Boston, 1999) 40.

⁹ See the chapter by Martine J. van Ittersum in Florian Hoffmann and Anne Orford (eds.), *The Oxford Handbook of International Legal Theory* (Oxford, forthcoming 2014). Over recent years, the myth of Grotius as a timeless symbol (the 'Grotian tradition') for international peace through law has been cut down to measure by historical studies which place him in context and stress his role as a servant of the Dutch East-India Company's imperialism. Richard Tuck, *The Rights of War and Peace. Political Thought and the International Order from Grotius to Kant* (Oxford, 1999) 78-108; Martine J. van Ittersum, *Profit and Principle. Hugo Grotius, Natural Rights Theories and the Rise of Dutch Power in the East Indies (1595-1615)* (Leyden/Boston, 2006).

II (1868-1918) to convene his international peace conference at The Hague, the decision of the conference to erect a Permanent Court of Arbitration and, finally, the donation by Andrew Carnegie for a 'Temple of Peace', and not any earlier events, that decided the city's destiny as the 'legal capital of the world'.

This essay rehearses the events of 1898 to 1913 and puts them in context. Its purpose is to try and explain the roots of The Hague's current position as 'legal capital of the world' by assessing the events of 1899 and the following years against the background of contemporary diplomacy and peace activism, highlighting the role of Andrew Carnegie. In the next paragraph, an exposition of the international politics of the late 19th century which forms the background for the Tsar's decision to call an international conference will be given. In the third paragraph follows a brief rendition of the 19th-century peace movement and its alliance with the emerging discipline of international law. The fourth paragraph focuses on the Tsar's decision to convene an international conference and goes in on the 1899 Peace Conference. The final paragraph covers the life of Andrew Carnegie, rehearses the events which led up to his gift and brings up the story to the Second Hague Peace Conference of 1907. The epilogue includes a brief reflection on the place of the events at The Hague in Carnegie's crusade for peace.

2. *International politics in the 'Age of Empire' (1870-1898)*

The seasoned diplomats and military men who convened at The Hague for the opening of the First Hague Peace Conference in May 1899 had lived through exciting and taxing times. The three decades which had lapsed since the Franco-Prussian War and the German unification in 1870-1871 had on the one hand been marked by economic and imperial expansion and by peace among the great powers of Europe but on the other hand also by a long economic crisis as well as by growing rivalry and tensions among the great powers. The 'Age of Empire', as it was called by a leading British historian, was an age of ambiguity and great uncertainty.¹⁰

On the economic side, the three final decades of the 19th century saw a new phase in the industrialisation of the West, spurred on by the railway revolution. Between 1870 and the inception of the Great War, the industrial output of the Western world multiplied by more

¹⁰ Eric Hobsbawm, *The Age of Empire 1875-1914* (London, 1984), with its excellent synthesis of international politics, 302-27.

than 4. Furthermore, the period saw the spectacular rise of new industrial powers, chief among them Germany, the United States and Japan. Paradoxically enough, the 1870s and 1880s were felt to be a period of economic crisis, known to contemporaries as ‘the Great Depression’. The rise of production went along with a decline of profit, triggered by a deflation of prices. Because the decline of prices could not be matched by a proportional reduction of labour cost – as wages were hardly above subsistence level – many businesses saw their profits and investments dwindle and failed. This led to the reorganisation and concentration of business in larger companies, protectionism and growing competition for colonies between the great powers.¹¹

On the political side, the great powers of Europe had been at peace with one another since the end of the Franco-Prussian War. Still, tensions often ran high as rivalry in and outside Europe rose. The fear of war was never far removed from the minds of both statesmen and the public. There were three major causes for these tensions.

First, the unification of Germany which came as a result of Prussia’s victory over the Habsburg Monarchy (1866) and France (1870-1871) had disrupted the Vienna system of international order. The Vienna system, which had been laid down at the end of the Napoleonic Wars (1814-1815) has rested on two pillars: the balance of power and the management of security problems by the ‘Concert of Europe’ of the five great powers. The basis of the balance of power was not so much the containment of France as the settlement of the German problem. At Vienna, the vanquishers of the French Emperor Napoleon (1769-1821) had been faced with a dilemma. Whereas they could not allow Germany to return to the division from the days of the Holy Roman Empire because this made the containment of France impossible, neither could it be allowed to unite as this would create too strong a power at the heart of Europe. The solution to the problem was the German Confederation, which consisted of around 40 States but which was dominated by two leading powers, Austria and Prussia, well posed to balance one another and contain France.¹²

The Prussian victory over Austria in the war of 1866 destroyed the foundational stone of the Vienna system. Four years later, the architects of Vienna were proven right in their fears for a united Germany when Prussia and its southern German allies routed French

¹¹ Hobsbawm, *Age of Empire*, 34-55.

¹² Henry Kissinger, *A World Restored. Metternich, Castlereagh and the Problems of Peace 1812-1822* (London 1957); Andreas Osiander, *The States System of Europe 1640-1990. Peacemaking and the Conditions of International Stability* (Oxford, 1994) 166-247; Paul W. Schroeder, *The Transformation of European Politics 1763-1848* (Oxford, 1994) 477-636.

resistance. But in the short run, it was not fear for Germany which dominated European policy, but rather the ousting of Austria from Germany, the defeat and desire of revenge of France and German fears for its survival as a new power. It was only after Germany had risen to the rank of the foremost industrial power of Europe and once it started on more assertive European and imperial policies, that the containment of Germany became a pivotal issue of the great powers' policy. That was not to happen before the end of the 19th century.

Historians have often rendered homage to the German chancellor and architect of his country's unity, Otto von Bismarck (1815-1898), for having managed the affairs of Europe as to allay fears for German power.¹³ In fact, Bismarck's concern was mostly one for the consolidation of German unity under Prussian leadership and for German security against French revenge or Russian attack. The first maxim of Bismarck's policy was to support Austria – which in 1867 had reformed itself into the Austrian-Hungarian Double Monarchy – in its orientation towards the Balkans and to help survive it as a great power. The collapse of the Habsburg Monarchy would invalidate the main argument against Austria's inclusion in the German Empire and thus jeopardise Prussia's dominance of it. Bismarck's second maxim was not to allow Germany to become isolated and to always form part of coalition in the face of the threat of war. According to the chancellor, Germany had always to be part of a coalition of two among three great powers and of three among five. To this effect, Bismarck sought to expand his natural alliance with Vienna by an alliance with Saint Petersburg. This led to the Three Emperors' League of 1873. Emboldened by this success in his search for security against France, in 1875, Bismarck flexed his muscles in an attempt to browbeat France in reducing her huge military posture. This, however, backfired, as both Britain and Russia made it understood they would not condone the collapse of France. After this, Bismarck retreated into a more careful policy of managing his allies' conflicts and staying clear of the Mediterranean and imperial ambitions of Britain and France by not wanting any colonies and not building a battleship fleet. The hallmark of this policy was a difficult exercise in keeping equal distance from Austria-Hungary and Russia in their rivalry over the Balkans, so that each would always look to Berlin for help but none would feel strong enough to attack the other.¹⁴

The second cause for tensions among the great powers of Europe centred on the decline of the Ottoman Empire and its anticipated collapse. Except for Germany, all the other great powers including Italy felt to have a stake in this. The points of conflict were the

¹³ E.g. the assessment of Bismarck's great admirer, Henry Kissinger, *Diplomacy* (New York etc., 1994) 103-67.

¹⁴ For a brief but thorough assessment, Brendan Simms, *The Struggle for Supremacy 1453 to the Present* (London, 2013) 236-51.

Balkans, the Straits between the Mediterranean and the Black Sea and Egypt. Britain and France were most concerned about keeping the Straits closed from Russia – one of the issues for the Crimean War (1853-1856)¹⁵ – and the future of Egypt and the Suez Canal. In 1882, the British took power in Cairo and ousted the French. Russia, which has been a main contender of the Ottoman Empire from around 1700, claimed to be the protector of the Orthodox Christians in the Balkans and supported the secession of Bosnia, Bulgaria and Serbia from the Ottomans. Furthermore, Russia sought entry for its fleet into the Mediterranean through the Straits. Austria-Hungary looked for expansion in the Balkan after its defeat in Germany but most of all, was afraid of the rise of Christian Balkan powers which might threaten the integrity of its empire.

All this came to the boiling point during the Balkan War of 1877-1878. The rebellion of the Bosnians Orthodox in 1875 and of the Bulgarians in 1876 and the fierce and cruel repression by the Ottomans led to the Russian intervention and the speedy defeat of the Ottoman Army.¹⁶ Through the Peace of Sebastopol of 3 March 1878,¹⁷ a huge Bulgarian kingdom was created. Britain, fearful of Russian control over the Balkans and ultimately Constantinople, sent in the navy to deter further Russian expansion. In great part thanks to the diplomatic intervention of Bismarck, a compromise was reached at the Conference of Berlin whereby Bulgaria had to cede some territory, Bosnia-Herzegovina was allotted to Austria-Hungary to administer – but not to annex – and Cyprus fell to Britain.¹⁸ While this appeared a major success for the young German Empire, it at the same time spelled the unsustainability of Bismarck's policy of equidistance between Vienna and Saint Petersburg.¹⁹

The third cause of tension concerned European and American – and by the mid-1890s Japanese – imperialism. In the last quarter of the 19th century, technical innovations in weaponry, communication and transport gave the industrialised West the means to explore, subject, exploit and govern all but the most inhabitable parts of the globe. During the Age of

¹⁵ For a recent evaluation of the causes of the Crimean War, Orlando Figes, *Crimea. The Last Crusade* (London, 2010) 1-129.

¹⁶ Mathias Schulz, 'The guarantees of humanity: the Concert of Europe and the origins of the Russo-Ottoman War of 1877' in Brendan Simms and D.J.B. Trim (eds.), *Humanitarian Intervention. A History* (Cambridge, 2011) 184-205.

¹⁷ Clive Parry (ed.), *The Consolidated Treaty Series* (hereinafter CTS, Dobbs Ferry, 1969), vol. 152, 395.

¹⁸ Final Act of the Berlin Conference of 13 July 1878, 153 CTS 171.

¹⁹ Ralph Melville and Hans-Jürgen Schröder (eds.), *Der Berliner Kongress von 1878: Die Politik der Grossmächte und die Probleme der Modernisierung in Südosteuropa in der zweiten Hälfte des 19. Jahrhunderts* (Wiesbaden, 1982); Jonathan Steinberg, *Bismarck. A Life* (Oxford, 2011) 352-73.

New Imperialism (1875-1920), the European powers and their white-settler offshoots in the Americas and Oceania subjected vast tracks of the globe and brought them into their empires. The original drive behind this was first and foremost economic. Through colonisation, the Western powers hoped to gain direct and exclusive access to natural resources and to markets for their industrial products. But the ‘scramble’ for colonies and markets quickly gained a political dimension. Imperial expansion became an element of national glory and of great power rivalry. The decision by a government to seek expansion in a certain territory was often inspired by the concern to prevent the territory to fall into the hands of a rival power or by the need to expand in order to defend existing positions. Imperialism brought Bismarck centre-stage again when in 1884 he convened the Berlin Conference on the future of Congo. Bismarck’s motivation for doing so and the motivation of the great powers to attend were to prevent the Congo Basin from falling to a rival great power. This would allow this power to dominate much of Sub-Sahara Africa and give it access to important resources, including manpower. The conference turned the Congo Basin over to the Belgian King Leopold II (1835-1909) and allowed, diplomatically as well as legally, for the great powers to carve up the rest of Africa. In the next two decades, Britain, France, Italy, Spain and Germany would subject most of the continent and include it in their empires. With this, Bismarck allowed Germany to be set upon the course of imperial expansion and thus jeopardised his policy of restraint.²⁰

The disruption of the Vienna system by the unification of Germany had left the great powers of Europe insecure. By the late 1880s, it became clear that they had set themselves on a course to address their insecurity which actually exacerbated the situation. This course came down to a triple policy of alliances, imperial expansion and armaments. These would cause tensions to rise over the late 1880 and 1890s, making many fearful of war.

After the German unification, the main guarantee for peace between the great powers had been the strategic flexibility of alliances and the uncertainty which came along with it. This ultimately rested on two pillars: Bismarck’s policy of equidistance between Austria-

²⁰ Robin A. Butlin, *Geographies of Empire. European Empires and Colonies, c. 1880-1960* (Cambridge, 2009) 1-118; Stig Förster, Wolfgang Mommsen and Ronald Robinson (eds.), *Bismarck, Europe and Africa. The Berlin Africa conference 1884-1885 and the onset of partition* (Oxford, 1988); Thomas Pakenham, *The Scramble for Africa* (London, 1991); R. Robinson and J. Gallagher, ‘The Partition of Africa’ in F.H. Hinsley (ed.), *The New Cambridge Modern History* 11 (Cambridge, 1962) 593-640; Herman Wesseling, *The European Colonial Empires 1815-1919* (Harlow, 2004).

Hungary and Russia and Britain's relative disinterest in the affairs of Europe – except the Mediterranean – and its resulting diplomatic isolation.²¹

In 1886-1887, a new Balkan crisis forced Bismarck to step in and rein in Russian ambitions once more. This time jingoist feelings in both countries could not be laid to rest and brought the policy of equidistance to and beyond its breaking point. The League of Three Emperors was virtually dead. The Reinsurance Treaty which Bismarck made with Russia in its stead (1887) only served to confirm this. It stipulated that Germany and Russia would remain neutral in case the other went to war, except if Russia attacked Austria-Hungary or if Germany attacked France. When the new German Emperor, Wilhelm II, who acceded to the throne in 1888, chose to radically support Austria-Hungary and to seek an alliance with Britain, he only buried a policy which was already dead. The forced resignation by Bismarck in 1890 was rather the consequence of his policy's failure than its cause. In the early 1890s, Russia and France moved closer to one another, forging a formal alliance in 1893. Whereas both France and Germany would continue to woo Russia until deep into the decade, to the keener observer, the fault lines of future war became clear. In the strategic context as it was, it was unthinkable that Russia would allow Germany to take out France or that France would go to war without Russia. On the German side, the new military strategy named after the head of the imperial staff, Alfred von Schlieffen (1833-1913), stipulated that any war with Russia would involve Germany first striking at France.²²

Strategic flexibility was now only guaranteed by Britain's isolation. During most of the 1890s, the diplomatic game turned around the future of the Ottoman Empire, Egypt and the Eastern Mediterranean. As long as Britain opposed Russia's ambitions towards the Straits, it supported Austria-Hungary while France constantly hovered between confrontation and compromise with Britain over Egypt. It was ultimately the defeat of the Italian expedition in Abyssinia at the Battle of Adowa in March 1896 that decided the game in the Eastern Mediterranean. Now that Italy, which together with Germany and Austria-Hungary had formed the Triple Alliance in 1882, was not a factor in North-Eastern-Africa any longer, the British chose to take matters in their own hand. Emboldened by the reform and build-up of their navy which had begun in 1889, London set itself on an assertive course. The decision was made to stop having British policy dictated by its concerns over the Straits. London felt its navy was now strong enough to neutralise any intrusion of the Russians into the

²¹ A.J.P. Taylor, *The Struggle for Mastery in Europe 1848-1918* (Oxford, 1954) esp. 346.

²² Taylor, *Struggle for Mastery*, 304-45; Terence Zuber, *Inventing the Schlieffen Plan. German war planning, 1871-1914* (Oxford, 2002).

Mediterranean. The new strategy dictated that Britain would hold on to Egypt and fortify the Suez Canal. An army was sent from Egypt to reconquer Sudan, which had fallen to the Mahdi rebellion in 1884. This set Britain on a collision course with France in Africa. Britain's problem of isolation had been resolved in a policy of self-sufficiency.

The British diplomatic retreat over the Straits was followed by a release of Russian pressure on Constantinople. At the end of 1896, the Russian government had seriously debated launching an attack on the Ottoman capital. The refusal of France to support such a move and a misapprehension of the British position had turned the government against this idea. Russia now decided to turn away from Europe and focus its energies and resources – including lavish French loans – on the development of its Asian empire, its transport system including the Trans-Siberian railway and its interest in North-East Asia. In 1895, Russia, supported by France and Germany, had intervened in the Chinese-Japanese peace settlement. By the Treaty of Shimonoseki China had to cede the peninsula of Liaotung to Japan.²³ After the peace was made, Russia arm-wrestled Japan in returning the peninsula in lieu of a huge war indemnification. Shortly afterwards, Russia made an agreement with China which allowed it to build a railway over Chinese territory towards the ocean. The opportunity lurked for Russia to gain an ice-free outlet to the world's oceans in the east. In April 1897, a treaty was signed with Austria-Hungary whereby both powers committed themselves to the status quo for the next ten years. In March 1898, the Russians occupied Port Arthur in North-East China.²⁴ China was set to become a new front of confrontation between the European powers, with Japan and the United States as newcomers in the game of great power diplomacy.

The diplomatic events of 1896-1897 confirmed the German imperial government on the course it set at the beginning of the decade. Shortly after his accession to the throne, Wilhelm II had attempted to secure an alliance with Britain. In 1896, the German government returned to this policy at the instigation of the Emperor. Angered by prior British rejections, the Emperor promoted a policy of naval and imperial expansion, known as *Weltpolitik*. Only in this way, it was thought, would Britain take Germany seriously and recognise the strategic value of cooperation. If necessary, confrontation with Britain would be sought to force the British hand. In 1896, Wilhelm II provoked London by sending a telegram of congratulations to the Boer president of Transvaal Paul Kruger (1825-1904) for his defeat of the Jameson Raid. In 1897, Wilhelm II and his government were, after many attempts, successful in having

²³ Treaty of 17 April 1895, 181 CTS 217.

²⁴ Taylor, *Struggle for Mastery*, 346-71.

their plan for a huge battleship fleet approved by the *Reichstag*. In November of that year, the Germans moved into the port of Kiatschou on the Liaotung peninsula. A few months later, Wilhelm II for the second time went to tour the Ottoman Empire, securing the contract for the Baghdad railway for a German company and sucking the Sultanate further into the orbit of Germany.²⁵

The German policy to force the British into an alliance was doomed from the start. First, both powers had little or no strategic interest in an alliance. Britain did not want to be sucked into a continental war which would destroy France whereas the strategic leverage Germany could build outside Europe would never be big enough to tip the balance of that equation. From her side, Germany would not risk a war with Russia over British colonial interests. The only thing the Germans achieved was to alert some British, and American, statesmen to the danger of the threatening ascendancy of Germany over Europe.

All this became clear in the months before Tsar Nicholas II moved to convene a disarmament and peace conference. After the Russian occupation of Port Arthur in March 1898, which followed failed negotiations between London and Saint Petersburg on China, Britain offered Germany an alliance. Germany refused as it saw no strategic gain which could validate a war against the huge Russian army. On 30 August 1898, Germany made another strategic retreat from its flawed *Weltpolitik* when it gave into to Britain on German claims to Delagoa Bay in present-day Mozambique, which would have allowed it to support the Boers in their upcoming confrontation with Britain. For now, Germany stayed out of Britain's imperial waters. But in the long run, this only made clearer where the real German threat to world order lay: in Europe.²⁶

3. *The 'peace through law' movement*

The great revolutions of the late 18th century had taught political leaders all over the Western world the power of public opinion. The restoration of the old regimes which was attempted at Vienna could not turn back the clock on this. In the context of rising nationalist feelings, public opinion gained an increasing impact over foreign policy during the 19th century. This was especially true in countries with parliamentary regimes such as Britain, France and the

²⁵ W.O. Henderson, *The German Colonial Empire 1884-1919* (London, 1993).

²⁶ Simms, *Europe*, 266-8; Taylor, *Struggle for Mastery*, 372-9; idem, 'International Relations' in Hinsley, *New Cambridge Modern History* 11, 542-66 at 561-2.

United States. The rise of public opinion went along with the formation of organised pressure groups in civil society. The first organised movement to score a major success in foreign policy was that for the abolition of the slave trade.²⁷ The peace movement which was formed after 1815 took courage from this success.

The 19th-century peace movement drew from two historical traditions. First, early Christianity had been radically pacifist but by the 3rd and 4th centuries, when Christian faith won acceptance in the Roman Empire, pacifism had to give way for a more pragmatic attitude that found its expression in the just war doctrine. Radical pacifism was pushed to the margins of the Church, where it would remain to lurk. After the Reformation, it found a new constituency among some protestant groups, in particular among nonconformist denominations in England and America, such as the Quakers.²⁸

Second, from the Late Middle Ages, a tradition of peace plans emerged in European literature. Writers ranging from Jean Dubois (c. 1305) over the Duke of Sully (Maximilien de Béthune, 1559-1641), Emeric de Crucé (c. 1590-1648), Godfried Wilhelm Leibniz (1646-1716), William Penn (1644-1718) and Saint-Pierre (Charles-Irénée Castel, 1658-1743) to Immanuel Kant (1724-1804) and Jeremy Bentham (1748-1832) laid out schemes to stabilise peace and ban war.²⁹ Many of these plans proposed a combination of the peaceful settlement

²⁷ Adam Hochschild, *Bury the Chains: Prophets and Rebels in the Fight to Free an Empire's Slaves* (Boston, 2005); Jenny S. Martinez, *The Slave Trade and the Origins of International Human Rights Law* (Oxford, 2012) 16-66.

²⁸ Roland Bainton, *Christian Attitudes towards War and Peace: A Historical Survey and Critical Re-examination* (Abingdon/New York, 1960); Stephen C. Neff, *War and the Law of Nations: A General History* (Cambridge, 2005); Frederick H. Russell, *The Just War in the Middle Ages* (Cambridge, 1975).

²⁹ Pierre Dubois, *De recuperatione Terrae Sanctae* (1306) in W. Brandt (transl.), *The Recovery of the Holy Land* (New York, 1956); Maximilien de Béthune de Sully, *Oeconomies royales* (1640) in D. Buisseret and B. Barbiche (eds.), *Les oeconomies royales de Sully* (Paris, 1970-1988); Emeric de Crucé, *Le nouveau Cynée ou Discours d'Etat représentant les occasions et moyens d'établir une paix générale et liberté de commerce par tout le monde* (1626) in A. Fénet and A.Z. Guillaume (eds.) (Rennes, 2004); Gottfried Wilhelm Leibniz, *Codex juris gentium diplomaticus* (Hannover, 1693); idem (anonymous), *Caesarini Fuerstenerii, Tractatus de Jure suprematus ac Legationis principum Germaniae* (s.l., 1678); William Penn, *An Essay towards the Present and Future Peace of Europe by the Establishment of an European Dyet, Parliament or Estates* (London 1693-1694, repr. Hildesheim, 1983); Charles-Irénée Castel de Saint-Pierre, *Mémoires pour rendre la Paix perpétuelle en Europe* (Cologne, 1712; 2nd edn., Utrecht, 1713-1717, repr. Paris, 1986) in H. Hale Bellot (transl.), *Selections from the second edition of the Abrégé du Project de Paix Perpétuelle by C.I. Castel de Saint-Pierre* (The Grotian Society Publications 5; London, 1927); Immanuel Kant, *Zum Ewigen Frieden. Ein philosophischen Entwurf* (Königsberg, 1795) in M. Campbell Smith (transl.), *Perpetual Peace. A Philosophical Essay* (London, 1917);

of disputes through arbitration with a regular diplomatic congress and a form of collective security.³⁰

The organised peace movement emerged in the wake of the Napoleonic Wars in Europe and of the American-British War of 1812-1814 in the United States. It was born from the reaction against the atrocities and devastations these wars had brought. In 1815, three local peace societies were formed in New York, Massachusetts and Ohio. In 1827-1828, they were consolidated by William Ladd (1778-1841) into the American Peace Society. The London Peace Society was formed in 1816. In the 1820s and 1830s, peace societies were also founded in Europe and later even in Japan, but for the whole of the 19th century, the movement had its centre of gravity in Britain and the United States. It were also the British and American societies which took the initiative to convene the first international conferences. After a first convention in London in 1843, where only a token representation from outside Britain and the United States attended, a series of annual conferences followed on the continent between 1848 and 1851 with more substantial delegations from Europe.

The Anglo-American peace movement had its roots in the radical pacifism of nonconformist protestant churches. But from its very beginning, it fell subject to debates between radicals who rejected all war and moderate reformers who proposed a programme to reduce the frequency and devastation of war. As the movement turned more secular, the latter gained the upper hand and began to set the agenda. A new fault line appeared between those who proposed a programme of social justice and the so called free-traders such as the British politician and businessman Richard Cobden (1804-1865) who considered freedom of trade the ultimate guarantee for peace. All in all, the movement remained an elitist affair. Through the presence of several politicians on its ranks, it had some political influence.³¹

Jeremy Bentham, *Plan for an Universal and Perpetual Peace* (1786-1789; The Grotius Society Publications 6; London, 1927).

³⁰ Dominique Gaurier, *Histoire du droit international. Auteurs, doctrines et développement de l'Antiquité à l'aube de la période contemporaine* (Rennes, 2005) 435-510; F.H. Hinsley, *Power and the Pursuit of Peace. Theory and Practice in the Relations between States* (Cambridge, 1963) 13-91; Jacob TerMeulen, *Der Gedanke der internationalen Organisation in seiner Entwicklung* (2 vols., The Hague, 1917-40); Kurt von Raumer, *Ewiger Friede. Friedensrufe und Friedenspläne seit der Renaissance* (Freiburg, 1953).

³¹ David Cortright, *Peace. A History of Movements and Ideas* (Cambridge, 2008) 25-35; Mark W. Janis, *America and the Law of Nations 1776-1939* (Oxford, 2010) 74-91; Cecelia Lynch, 'Peace Movements, Civil Society, and the Development of International Law' in Bardo Fassbender and Anne Peters (eds.), *The Oxford Handbook of the History of International Law* (Oxford, 2012) 198-221 at 198-208.

The Crimean War and the American Civil War (1861-1865) caused a deep crisis in the peace movement as its leaders were torn between pacifism and support for their side. After the war, the movement quickly revived. While the split between radicals and reformers deepened, the former were pushed to the margins. All over the Anglo-American world and, to a lesser extent, continental Europe, peace societies proliferated at the local and national level. Some were dedicated to a specific goal while others targeted specific groups such as workmen or women. The demographic basis of the movement expanded, although it did not become a mass movement yet. The efforts at international organisation, which had ceded with the Crimean War, revived. Again, the Americans showed most initiative. Major achievements included the annual Universal Peace Conferences from 1889 onwards and the establishment at Bern in 1892 of the International Peace Bureau which was to coordinate the activities of the movement and to which more than 100 peace societies acceded. In 1889, William Randal Cremer and the Frenchman Frédéric Passy (1822-1912) founded the Inter-Parliamentary Conference, later renamed the Inter-Parliamentary Union. Its main purpose was to allow for coordinated action for peace in the legislative assemblies of different countries. It added political clout to the peace movement, as did the adherence of major industrialists such as Andrew Carnegie, Alfred Nobel (1833-1896) and John D. Rockefeller (1839-1937).³²

From the 1860s forward, the reformist peace movement gained new traction and influence from its alliance with the emerging discipline of international law. During the second half of the 19th century, international law became an established academic discipline. Since the late 17th century, the law of nations had been taught at several universities in combination with natural law. Now, independent chairs in international law were established – as in Oxford in 1859 and in Cambridge in 1866 – and international law became an autonomous subject on the law curriculum. In 1868, the Dutch Tobias Asser (1838-1913), the Belgian Gustave Rolin-Jacquemyns (1835-1902) and the British John Westlake (1828-1913) founded the *Revue de droit international et de législation comparée*. More than just an academic journal on international and comparative law, the journal was meant as a platform for liberal reform through national legislation and for the humanisation of international law through the formation of an international public opinion.³³ In 1873, at the initiative of Rolin-Jacquemyns, the ‘Institut de Droit International’ was founded at Ghent. The Institute was designed as an international academic association of leading specialists in international law.

³² Cortright, *Peace*, 35-40.

³³ Gustave Rolin-Jacquemyns, ‘De l’étude de la législation comparée et de droit international’, *Revue de droit international et de législation comparée*, 1 (1869) 1-17 at 11.

In founding the Institute, Rolin-Jacquemyns had parted ways with a group of American peace activists and international lawyers who aspired at convening a new international peace conference which would decide on a code of international law and establish a permanent, international peace organisation and who wanted to found a more activist association. This group had founded the International Code Committee to rally support for this in the United States and had sent the lawyer David Dudley Field (1805-1894) to Europe to sound out feelings there. This American, activist initiative led to the foundation of the Association for the Reform and Codification of the Law of Nations, which in 1897 was re-baptised into the International Law Association.³⁴

Many peace activists and international lawyers shared a faith in the progress of humanity and civilisation, which sprang from liberal economic and political philosophy, social Darwinism or a combination of both. On the legal side, there was also the tradition of Friedrich Carl von Savigny (1779-1861) and the German Historical School with their ideas about law as the gradual articulation of the *Volksgeist*, the common spirit of the nation. The faith in progress by human endeavour had replaced the original faith in God's plan for mankind as the source of optimism and voluntarism within the peace movement.³⁵ Some international lawyers also shared in the deep distrust towards state agents and institutions in the pursuit of peace and justice which was common to many peace activists. For these international lawyers, such as Rolin-Jacquemyns, the way forward was one of increasing control over States' policies by an international civil society and international public opinion. These ideas went along with pleas for international organisation, codification and ultimately federation as well as a strong interest in the development of private international law. But this 'Kantian' perspective on international law and order was certainly not shared by all international lawyers. Most preferred to work within the confines of the reality of their field, which was that of the regulation of horizontal relations between sovereign States. This was particularly true for these lawyers who gained direct influence over foreign policy, as in the

³⁴ Janis, *America and the Law of Nations*, 134-5; Martti Koskenniemi, *The Gentle Civilizer of Nations. The Rise and Fall of International Law 1870-1960* (Cambridge, 2002) 11-67.

³⁵ Koskenniemi, *Gentle Civilizer*, 42-97; Lynch, 'Peace Movements', 209-10; Casper Sylvest, 'International Law in Nineteenth-Century Britain', *British Yearbook of International Law*, 75 (2004) 9-70; James Q. Whitman, *The Legacy of Roman Law in the German Romantic Era: Historical Vision and Legal Change* (Princeton, 1990).

United States where in the 1890s and the early 20th century, many leading diplomats, including all Secretaries of State, were lawyers.³⁶

There were five different points on the agenda of the ‘peace through law’ movement: 1) the establishment of an international league of States which would impose collective security, 2) the codification of international law and 3) in particular the laws of war with the purpose of humanising warfare, 4) disarmament through binding international agreements and 5) the peaceful settlement of disputes, mainly through arbitration, as an alternative for war. The first point only found broad support in continental Europe, among those international lawyers and other pacifists who wanted to replace the framework of national States by a European federation. The last one, and in particular the fight for arbitration, became the spear point of the movement’s thrust by the end of the century.

The idea of a federation, league or permanent congress of princes or States which would ensure a form a collective security was a focal point of many of the peace plans which were written between the 15th and early 18th centuries, such as those of Sully, Crucé, Penn and Saint-Pierre. In continental Europe, the idea developed into the dream of a true European federation, of European unification. This idea was time and again put forward by leading peace activists such as Henri de Saint-Simon (1760-1825), Victor Hugo (1802-1885) and Charles Lemonnier (1860-1930), but it met with little or no support on the side of Britain and the United States. Nevertheless, the European federalists were successful in having the Universal Peace Conferences of the early 1890s call for the establishment of a ‘United States of Europe’. Also, more vague ideas about a league of nations were sometimes restated by individual publicists.³⁷ In the Anglo-American world, the old scheme for a permanent congress found its most famous and influential expression in William Ladd’s *Essay on a Congress of Nations* (1840). Whereas in many of the older peace plans, the congress of nations combined powers of adjudication with those of collective security and sometimes even legislation, Ladd proposed to distinguish a congress which would develop international law through treaties and compacts from a court which would arbitrate disputes. Thereby, he mirrored the constitutional doctrine of the division of powers at the international level. But Ladd’s congress was not the governing body of a political federation. It was a real diplomatic

³⁶ Martti Koskenniemi, ‘The Ideology of International Adjudication at the 1907 Hague Conference’, in Yves Daudet (ed.), *Actualité de la Conférence de La Haye de 1907, Deuxième Conférence de la Paix. Topicality of the 1907 Hague Conference, the Second Peace Conference* (Hague Academy of International Law; Leyden/Boston, 2008) 127-52.

³⁷ Hinsley, *Power and the Pursuit of Peace*, 92-126.

congress. Ladd was most concerned with showing that his congress would not jeopardise the sovereignty of States.³⁸ In later years, the Anglo-American peace activists would often oppose the priority continental Europeans gave to their dream of European federation, as they judged this an impediment for immediate, more realistic measures for peace.³⁹

One such measure, which held a lot of support on both sides of the Atlantic, was the codification of international law. Jeremy Bentham and his student James Mill (1773-1836) had given powerful voice to this idea.⁴⁰ It was adopted by Ladd and the American Peace Society. As the century progressed and the impact of international lawyers grew, the idea moved to the foreground. The ambition to codify international law was an inspiration to both the founders of the Institute of International Law as of the Association for the Reform and Codification of the Law of Nations. Whereas no 'official' draft codifications emerged from these institutions, drafts had already come forward from leading individual members of both associations, Johann Caspar Bluntschli (1808-1881) of the Institute and David Dudley Field of the Association.⁴¹ The greatest successes in relation to codification were, however, achieved in relation to two specific fields: private international law and the laws of war (*jus in bello*). In 1893, the first Conference on Private International Law convened at The Hague at the instigation of Tobias Asser. In concordance with some other international lawyers, among whom Fyodor F. Martens (1845-1909) from Russia, Asser had succeeded in convincing his and other governments to convene and attend the conference. The first conference was followed by a second one in 1894 and a third one in 1900. In 1951, the Conferences were institutionalised into a permanent organisation which still exists. Numerous conventions on private international law were produced at the Hague Conferences.⁴²

³⁸ William Ladd, *An Essay on a Congress of Nations for the Adjustment of International Disputes without Resort to Arms* (Boston, 1840; repr. Oxford, 1916); Janis, *America and the Law of Nations*, 79-84.

³⁹ Hinsley, *Power and the Pursuit of Peace*, 94-9.

⁴⁰ Jeremy Bentham, 'The Objects of International Law' in John Bowring (ed.), *The Works of Jeremy Bentham* (Edinburgh, 1843) vol. 2, 537-8; James Mill, 'Law of Nations' (1820), reprinted in James Mill, *Essays on Government, Jurisprudence, Liberty of the Press and the Law of Nations* (London, 1828); Hinsley, *Power and the Pursuit of Peace*, 81-91.

⁴¹ Johann Caspar Bluntschli, *Das moderne Völkerrecht der civilisierten Staaten als Rechtsbuch dargestellt* (Nördlingen, 1868); David Dudley Field, *Draft Outlines of an International Code* (New York, 1872).

⁴² Kurt Lipstein, 'One Hundred Years of Hague Conferences on Private International Law', *International and Comparative Law Quarterly*, 42 (1993) 553-653. J.H.A. van Loon, 'The Hague Conference on Private International Law: An Introduction' in Van Krieken and MacKay, *The Hague, Legal Capital of the World*, 518-

The effort to humanise war through developing and codifying the laws of war won a place on the agenda of the peace movement only with time and reluctance, as it clashed with the ideal of the total rejection of war. But the new levels of horror and devastation in the wars of the 1850s and 1860s, made possible by new weaponry, catapulted it to the forefront of the emerging movement for peace through law. The Swiss businessman Henry Dunant (1828-1910) and his International Committee of the Red Cross (1863) were instrumental in raising awareness among public opinion for the need to humanise war. It was in relation to this subject that the peace movement first met with cooperation on government side. In April 1863, the American President Abraham Lincoln (1809-1865) promulgated a code of regulations for the conduct of the Union armies in the Civil War, often named for its author, Francis Lieber (1798-1872).⁴³ After 1870, several European countries followed suit with their own national code, which was in most cases based on the Lieber Code.⁴⁴ At the international level, a first important step was taken at Geneva in 1864, where 12 European States adopted the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.⁴⁵ At a conference called by Tsar Alexander II (1818-1881) at Saint-Petersburg in 1868, a convention banning the use of explosive bullets was signed by 19 powers, including Persia and the Ottoman Empire.⁴⁶ The massive violations of the Geneva Conventions and the new levels of horror during the Franco-Prussian War mobilised the ‘peace through law’ movement for a new push on the subject of the humanisation of war. In August 1874, a diplomatic conference met at Brussels to discuss a project for a general code on the laws and customs of war. Again, the initiative came from the Russian Tsar Alexander II. The 15 European States present adopted the draft but it was never ratified.⁴⁷

Disarmament and arbitration were the two points which ranked the highest on the agenda of the ‘peace through law’ movement in the later years of the 19th century. Already in

26; C.C.A. Voskuil (ed.), *The Influence of the Hague Conference on Private International Law* (The Hague, 1993).

⁴³ US Adjutant-General’s Office, General Order No. 100, *Instructions for the Government of Armies of the United States in the Field* (New York, 1863).

⁴⁴ L.C. Green, *The Contemporary Law of Armed Conflict* (2nd edn., Manchester, 2000) 29-30; Adam Roberts and Richard Guelff (eds.), *Documents on the Laws of War* (3rd edn., Oxford, 2000) 12-3.

⁴⁵ Convention of 22 August 1864, 129 CTS 31.

⁴⁶ Saint Petersburg Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight of 11 December 1868, in Roberts and Guelff, *Documents on the Laws of War*, 53-7.

⁴⁷ Geoffrey Best, *Humanity in Warfare. The Modern History of the International Law of Armed Conflicts* (London, 1980) 128-215.

1816, the Russian Tsar Alexander I (1777-1825) had made a proposal to the British for a mutual reduction of their armed forces. Calls for agreement on the limitation or reduction of armaments were made by the peace movement from the 1840s onward. Over the years, leading pacifists would put forward motions to promote disarmament in the parliament of their respective countries, sometimes in coalition with leading politicians such as William Gladstone (1809-1898) as in the case of Richard Cobden. In the years after the Crimean War and in the context of rising tensions among the great powers, different leaders such as Gladstone and the French Emperor Napoleon III (1808-1873) put out feelers to their foreign counterparts to test the waters for an international agreement on arms limitations. But nothing came from it. Nevertheless, the point remained on the agenda of the international peace movement and its international law branch. Time and again, the Universal Peace Conferences and the Inter-Parliamentary Union adopted resolutions on disarmament. During the 1890s, the rise of army and navy expenditures of the European great powers, Japan and, albeit more moderately until Theodore Roosevelt (1858-1919) became president in 1901, the United States, made disarmament a more pressing while at the same time less realistic project. Leading politicians of different countries voiced their support, either to appease public opinion or to lessen the pressure on government finances, or both. But at the same time, the armaments were defended as the ultimate deterrent against war.⁴⁸ Among the public, the call for disarmament won wide support, among others through the writings of Bertha von Suttner (1843-1914), the Austrian author of the hugely successful novel *Die Waffen Nieder* (1889)⁴⁹ and the British journalist William Stead (1849-1912).⁵⁰

For the international peace movement, disarmament and arbitration went hand in hand. It was generally held that disarmament was unrealistic as long as there was no successful method found to prevent wars. For this, the ‘peace through law’ movement turned to arbitration. Arbitration as a means of international dispute settlement has deep roots in the international legal practice and theory of Europe and the West. Many of the peace plans from early-modern literature proposed arbitration, but its actual use dwindled during the 17th and especially 18th centuries. In 1794, the Jay Treaty between Britain and the United States provided for an arbitral tribunal to settle outstanding disputes between the signatories.⁵¹ The

⁴⁸ Calvin Dearmond Davis, *The United States and the First Hague Peace Conference* (Ithaca, N.Y., 1962) 40-1.

⁴⁹ Dresden, 1889.

⁵⁰ Eyffinger, *The 1899 Hague Peace Conference*, 48-55; Lynch, ‘Peace Movements’, 206 and 210; Merze Tate, *The Disarmament Illusion. The Movement for the Limitation of Armaments to 1907* (New York, 1942) 9-163.

⁵¹ Treaty of Amity, Commerce and Navigation of 19 November 1794, 52 CTS 243.

Peace of Ghent of 1814 between the same powers also established arbitral commissions.⁵² Over the 19th century, arbitration was increasingly used. But the breakthrough of arbitration as the instrument of choice of international lawyers and pacifists came with the successful *Alabama Arbitration* in 1872. The previous year, at the Treaty of Washington, London and Washington had decided to refer the disputes between the two countries arising from Confederate privateering activities during the Civil War to an arbitral panel.⁵³ This was a major concession on the part of Britain, which it made to ward off any risk of war with the United States in the immediate wake of France's collapse against Prussia.⁵⁴ But whatever the political motives behind the *Alabama Arbitration*, it caused an upsurge of enthusiasm for arbitration among the American and British peace activists and through their endeavours would dominate the agenda of the international peace movement for the next four decades.⁵⁵ Jurists set to work to develop fixed rules of procedure and to debate the possibility of a general obligation for States to settle their disputes by arbitration. In 1875, the Institute of International Law adopted a code for arbitral procedure.⁵⁶ In 1898, the American lawyer John Bassett Moore (1860-1947) published his massive work on the history of international arbitration.⁵⁷

The peace movement mobilised to gather support for the expansion of international arbitration. Already in 1871, the International Workmen's Peace Association called for the establishment of an international court. Other than an ad hoc arbitral panel, this would be a real court with a bench of permanent judges. In 1880, the organisation changed its name into

⁵² Treaty of Ghent of 24 December 1814, 63 CTS 421.

⁵³ 'The Alabama Claims and Award, 1872' in James Brown Scott, *Cases on International Law* (Saint Paul, 1906) 713-7.

⁵⁴ On the political motives, Simms, *Europe*, 246.

⁵⁵ S.F. Bemis, *Jay's Treaty: A Study in Commerce and Diplomacy* (New Haven/London, 1962); Karl-Heinz Lingens, *Internationale Schiedsgerichtbarkeit und Jus Publicum Europaeum 1648-1794* (Berlin, 1988); Cornelis G. Roelofsen, 'The Jay Treaty and All That' in Alfred H.A. Soons (ed.), *International Arbitration: Past and Prospects* (Dordrecht, 1990) 201-10; idem, 'International Arbitration and Courts' in Fassbender and Peters, *Oxford Handbook of the History of International Law*, 145-69 at 159-66; Alexander M. Stuyt, *Survey of International Arbitrations* (3rd edn., Dordrecht, 1990); J.H.W. Verzijl, *International Law in Historical Perspective* (Leyden, 1976) vol. 8, 180-262.

⁵⁶ Institute of International Law, *Projet de règlement pour la procédure arbitrale internationale*, 28 août 1875, in *Annuaire de l'Institut de Droit International* (1875).

⁵⁷ John Bassett Moore, *History and Digest of International Arbitrations to Which the United States has been a Party* (6 vols., Washington, 1898).

International Arbitration League. National arbitration leagues emerged in different countries. Both British and American peace activists succeeded in passing resolutions in their respective parliaments calling for the international arbitration of international disputes (1873). All over continental Europe, campaigns for arbitration to put pressure on parliaments and governments were set up. The movement increasingly focused on pressuring for bilateral or general arbitration treaties that stipulated a general obligation – with exemptions or not – for States to submit their disputes to an arbitral panel. For the moment, this cast the idea of a permanent world court somewhat in the shadows.⁵⁸

The arbitration movement received the biggest support from the United States, where the ‘peace through law’ movement obtained substantial influence in government circles in the 1890s. In 1889, the First Pan-American Conference adopted an arbitration treaty, exempting however all matters which referred to the national independence from the obligation to refer to arbitration. In the 1890s, the United States engaged in several arbitrations with Britain, such as in the *Bearing Sea Case* (1893) and the *Venezuela-British Guiana Case* (1896). After a fight of many years, in 1893, William Randal Cremer with the support of the Gladstone administration succeeded in having a resolution passed in the British House of Commons calling for a general arbitration treaty with the US. The ensuing failure of the Olney-Pauncefote Treaty to pass ratification in the American Senate (1897) did nothing to dissuade the international peace movement from the cause of arbitration.⁵⁹

4. *The Tsar’s Rescript and the First Hague Peace Conference (1898-1899)*

When Tsar Nicholas II had his Minister of Foreign Affairs, Count Michael Mouravieff (1845-1900) hand over a circular to the representatives of the foreign powers in Saint Petersburg on 24 August 1898, he surprised and disconcerted the world of diplomacy but found a ready audience among peace activists.⁶⁰ The Tsar’s rescript invited the nations to a conference to discuss disarmament. The peace movement reacted with enthusiasm. In Britain and the United

⁵⁸ Sandi E. Cooper, *Patriotic Pacifism: Waging War in Europe, 1815-1914* (New York, 1991) 47-56; Cortright, *Peace*, 49-50; Hinsley, *Power and the Pursuit of Peace*, 124-6.

⁵⁹ Davis, *United States and the First Hague Peace Conference*, 19-28; Koskenniemi, ‘Ideology of International Adjudication’, 132-4.

⁶⁰ The text is reproduced in Shabtai Rosenne (ed.), *The Hague Peace Conferences of 1899 and 1907 and International Arbitration. Reports and Documents* (The Hague, 2001) 23-4.

States, which just came out of its war against Spain, mass meetings – the so-called ‘peace crusades’ – were held. William Stead and others lent their powerful voices to rally support behind the Tsar’s initiative.⁶¹

The governments of the world felt their hands forced to give a positive reaction in the open to appease public opinion, but with almost the sole exception of the United States, true reactions went from lukewarm to stark negative. Two countries in particular were opposed: Germany, which was committed to its naval programme and France, which was angered by the fact that it had been taken by surprise by its ally and which did see an agreement on disarmament as acquiescence with the status quo and the surrender of its desire for revenge against Germany. But above all, the governments of the world were puzzled at the initiative from the young Tsar, whose country had by far the biggest army and was heavily investing in its navy.⁶²

With his initiative, Nicholas II adhered to a family tradition, threading the footsteps of his forebears Alexander I and Alexander II. It was also said that he was influenced by the work of the Polish banker Jan Bloch (1836-1902), who in his massive work on modern technology and war had painted a horrendous picture of future war.⁶³ But the powers were mostly questioning the strategic motives of the Russian government behind the invitation.

The Tsar’s initiative fitted the new Russian strategy to prioritise its strategic interest in Asia over Europe. A reduction of armaments or a moratorium in the armaments race on land would give Russia the much needed financial space to continue its infrastructure programme – among others for Siberia – and, possibly, its naval expansion. Moreover, Saint Petersburg hoped that the conference would drive a wedge between Britain and Germany which had common strategic interests in stopping Russian progress in China. Just two weeks before Mouravieff distributed the rescript, the Spanish-American War had ended in complete American victory. On 18 August, Britain had issued a stern warning to Russia over China.

⁶¹ Davis, *United States and the First Hague Peace Conference*, 54-62; Eyffinger, *The 1899 Peace Conference*, 58-67; Tate, *Disarmament Illusion*, 197-215.

⁶² Davis, *United States and the First Hague Peace Conference*, 39-42; Eyffinger, *The 1899 Hague Peace Conference*, 25-31; Tate, *Disarmament Illusion*, 249-64.

⁶³ Jan Bloch, *The War of the Future in its Technical, Economic and Political Relations* (London, 1899), English abridged version of the 6-volume original.

Saint Petersburg was now fearful of an American-British-German combination to stop its expansion in China.⁶⁴

The Tsar's initiative did not retain the attention of world leaders for long. In the weeks to follow, it became quickly overshadowed by greater concerns. The Fashoda Incident – named after a place in Sudan where British and French troops met and faced one another for weeks – almost led to war between Britain and France. Meanwhile, some great powers, including Russia, went through with strengthening their armies and navies. Against lukewarm reactions of most European powers, Mouravieff began to backtrack on the Tsar's initiative. Promises were made that the conference would not cover political issues and would limit itself to an exchange of views among experts. Within Russian government circles, the views shifted from a moratorium on the number of armaments – the real original goal – to an agreement to ban technical innovations for a certain period of time.⁶⁵

By October, it was clear that the Russian government had landed itself into an embarrassing situation. At this point, Fyodor Martens, professor of international law and one of the foremost members of the Institute of International Law as well as long-time advisor with the Russian Foreign Ministry, proposed to expand the programme of the conference to the codification of the law of war and to arbitration, thus transforming the disarmament conference into a broad peace conference. When the Russian government issued a second diplomatic circular on the conference on 11 January 1899, it contained an 8-points programme: 1 point on a general moratorium for armaments, 3 on the prohibition of certain types of arms, 3 on the laws of war on land and sea, and 1 on the peaceful settlement of disputes. The memorandum of Martens from October 1898 was included. The new circular closed with the remark that the Tsar found it best not to convene the conference in the capital of a great power. By thus ruling out Saint Petersburg, the anticipated venue, the Russian government wanted to spare itself new embarrassment in case the conference failed.⁶⁶

During the weeks to follow, the Russian government decided to request the Dutch government to host the conference at The Hague. The decision to rule out the great powers brought Belgium, Denmark, the Netherlands and Switzerland into the picture. The Netherlands became the likely choice by a process of elimination. Denmark let it be known

⁶⁴ For the backstory within the Russian government over the rescript, E.J. Dillon, *The Eclipse of Russia* (London, 1918) 269-87; Tate, *Disarmament Illusion*, 167-92; Abraham Yarmolinsky (ed.), *The Memoirs of Count Witte* (London, 1924) 86-102.

⁶⁵ Eyffinger, *The 1899 Hague Peace Conference*, 35-7; Tate, *Disarmament Illusion*, 264.

⁶⁶ Second rescript in Rosenne, *The Hague Peace Conferences*, 24-6; Pustagarov, *Our Martens*, 162-9.

that it was not interested. The Belgian government, notwithstanding the eagerness of King Leopold, opposed the idea because of the problems it anticipated with the Holy See which might not be invited. Finally, Switzerland was ruled out by Count Sergei Witte (1849-1915), the Tsar's all powerful Minister of Finance, because of the recent murder on the Austrian Empress Elisabeth (1837-1898) – Sissi – at Geneva. On the other side, The Hague had much to recommend itself. It was considered a quiet, discrete and pleasant venue, easily reachable. Also, the Tsar had family ties to the Dutch royal family. When the Dutch government was sounded out, the request was granted and Queen Wilhelmina put her palace *Huis ten Bosch* at the disposal of the conference. It is likely that the fact that Martens had attended Asser's private international law conferences at The Hague played a role, since Martens held great influence on the preparations at Saint Petersburg.⁶⁷

The First Peace Conference convened at The Hague from 18 May to 29 July 1899. Delegates from 25 governments representing 26 countries – Russia representing Montenegro – attended. Apart from the European powers these included China, Japan, the Ottoman Empire, Persia, Siam and the United States, with Mexico as the only Latin-American country invited. Martens, although he had to cede place of honour to the head of the Russian delegation, in fact dominated the presidency of the conference and was successful at organising the conference along the threefold division of disarmament, laws of war and dispute settlement he had first proposed in his memorandum of October 1898.⁶⁸

The conference met with great expectations from the peace movement and few illusions from the governments. In the latter light, the conference can be evaluated as an unexpected success. Its successes lay in the issues which had least significance for the constant struggle for security and power, but most for the agenda of the 'peace through law' movement. The lawyers who dominated the conference – such as Martens, Léon Bourgeois (1851-1925), Louis Renault (1843-1918), sir Julian Pauncefote (1828-1902), Tobias Asser and Frederick Holls (1857-1903) – grasped the opportunity Martens had created and set important steps in the realisation of the 'peace through law' agenda. In a sense, the peace movement had been allowed to highjack the conference which had been first initiated for reasons of high power politics because these reasons had dissipated.

⁶⁷ Eyffinger, *Peace Palace*, 17-8; idem, *The 1899 Peace Conference*, 40 and 77-88.

⁶⁸ Pustagarov, *Our Martens*, 167-74; also see James Brown Scott (ed.), *The Proceedings of the Hague Peace Conferences. Translation of the Official Texts prepared in the Division of International Law of the Carnegie Endowment for International Peace* (New York, 1920) vol. 1, 9-21.

The conference achieved little in relation to disarmament, except for three declarations on the use of specific weaponry. The second subcommittee on the codification of the laws of war produced a general *Convention with Respect the Laws and Customs of War on Land* and a convention to adapt the Geneva Convention to maritime warfare. The third subcommittee produced a convention on the peaceful settlement of disputes. The idea to make arbitration, or another form of peaceful dispute settlement, obligatory had proved to be unattainable. The major material result from the convention was the foundation of a Permanent Court of Arbitration. The name was in fact a misnomer as the new institution held, at the very best, the middle between a court and an *ad hoc* tribunal. It was a list of potential arbitrators from which parties to a dispute could choose. There would be, however, a permanent registry and the convention contained elements of a general arbitration procedure. The Court's seat was to be at The Hague.⁶⁹

5. *Andrew Carnegie and the Temple of Peace (1899-1907)*

With the foundation of the Permanent Court of Arbitration, a step has been set in the achievement of one of the main programme points of the 'peace through law' movement. In the eyes of many in the movement, it had the potential of becoming an important and visible step towards enduring peace. The choice for The Hague as seat for the Court gave the city a permanent link to the 'peace through law' movement. It was, in fact, the birth of The Hague as 'the legal capital of the world'.

⁶⁹ See 'Report to the Conference from the Third Commission on Peaceful Settlement of International Disputes' in Rosenne, *The Hague Peace Conferences*, 29-129. On the proceedings and results of the conference: Jost Dülffer, *Regeln gegen den Krieg? De Haager Friedenskonferenzen von 1899 und 1907 in der internationalen Politik* (Berlin/Vienna, 1978); Eyffinger, *The 1899 Hague Peace Conference*; idem, 'A Highly Critical Moment. Role and Record of the 1907 Hague Peace Conference', *Netherlands International Law Review*, 54 (2007) 197-228. William Isaac Hull, *The Two Hague Conferences and Their Contributions to International Law* (New York, 1972); James Brown Scott (ed.), *The Hague Conventions and Declarations of 1899 and 1907, Accompanied by Tables of Signatures, Ratifications and Adhesions of the Various Powers and Texts of Reservations* (New York, 1915); idem, *The Reports of the Hague Conferences of 1899 and 1907* (Oxford, 1917); idem, *Proceedings of the Hague Peace Conferences*, vol. 1; idem, *The Hague Conferences of 1899 and 1907: A Series of Lectures Delivered before the John Hopkins University in the Year of 1908* (2 vols., New York, 1972). On the Permanent Court of Arbitration, see Bette Shifman, 'The Permanent Court of Arbitration' in Van Krieken and MacKay, *The Hague*, 127-80 and literature there.

It now fell to the Dutch authorities to find housing for the Court. After a grander scheme was rejected, the court was housed in a fairly modest building on the *Prinsengracht*. Even before that decision was taken, at least one member of the Court, Martens, had given voice to the idea of finding a sponsor for a more impressive court building. From the beginning, thoughts centred on Andrew Carnegie. At the end of 1899, Martens made the suggestion for a donation by Carnegie towards a building for the Permanent Court to William Stead, who was preparing a publication in answer to the American steel magnate's announcement that he would start with his long-cherished plan of giving his huge fortune away.⁷⁰ Martens apparently thought the suggestion would reach the ears of the American philanthropist, but when he understood it had not, he repeated the suggestion to the American ambassador in Berlin, Andrew White (1832-1918), the head of the United States delegation at the Peace Conference. On 18 June 1900, White wrote a letter to Carnegie in which he expounded the idea. He suggested a donation to cover for a building which would house the Permanent Court, future international tribunals, a library and the archives of the Court and would serve as a venue for new conferences. Thus the idea of a 'Palace of Peace' was born. Carnegie replied in his usual way, non-committal and inquisitive, but invited White to his summer abode, his castle at Skibo in his native Scotland.⁷¹

The period around 1900 was a veritable turning point in the life of Andrew Carnegie. At the age of about 65, Carnegie decided to sell his steel company and started on a path that changed him from the biggest industrialist in history to the greatest philanthropist. Andrew Carnegie had been born in Dunferline, Scotland in 1835. His father, who was a handloom weaver, decided to escape the abject poverty of the region and moved the family to Allegheny, just outside Pittsburgh in Pennsylvania in 1848. The 13-year old Andrew was put to work, first as a bobbin boy and then as a telegraph messenger boy. The education he received came from sneaking into the local theatre and reading through the 400-books library of a local notable who opened it to young labourers. In 1853, he moved to the Pennsylvania Railroad Company and in 1855 made his first personal investment. In the next few decades, he would turn himself in the quintessential embodiment of the American dream, surfing on the waves of industrialisation and railroad construction. By the 1880s, Carnegie was the biggest steel magnate in the United States and one of the richest men on earth.

⁷⁰ William Stead *Mr. Carnegie's Conundrum: £ 40,000,000; what shall I do with it?* (London, 1900).

⁷¹ From the letter of White to Alfred Fried of 8 July 1913, published in *Friedenswarte*, 15 (1913) 281-5 and in *Yearbook of the Carnegie Endowment for International Peace* (1919) No. 8, 195-7. See for the reconstruction of the story behind the Carnegie donation, Eyffinger, *Peace Palace*, 49-54; Lysen, 'History', 1-68.

Carnegie's ambitions were, however, not restricted to his business success or the social promotion that came along with it and which the upstart from Dunferline so much craved. Carnegie, who needed no more than a few hours a day to run his business empire, did not only invest a lot of time in his social standing, but also aspired to become a writer. Publishing numerous travel stories, speeches, pamphlets and contributions to periodicals, he became a well-known and influential publicist and opinion-maker.⁷²

In the *North American Review* of 1889, Carnegie published his views on the purpose of wealth. His *Gospel of Wealth*, as it became known, was to prove the road map for his later life. In this article, Carnegie set out a vision on society that was heavily influenced by Herbert Spencer (1820-1903), the British popular philosopher who was the guru of social Darwinism and coined the words 'survival of the fittest'. Spencer gave Carnegie a rational, non-religious underpinning for his beliefs in human progress, at the same time putting himself as entrepreneur at its spearhead. Spencer's ideology of social evolution was one of growing specialisation and social differentiation. To him, industrialisation was the ultimate accomplishment of mankind.⁷³ In his *Gospel of Wealth*, Carnegie adopted Spencer's ideas to the fullest in his assessment of the causes of growing social inequality. In his as in Spencer's view, specialisation and competition did not only allow the most talented and industrious people to become wealthy, but it also made them the engines of human progress. The direction of progress was determined by natural laws, but endeavours of individuals actually made it happen. The laws of specialisation and competition explained why some people's contributions were greater than those of others, and why the talents of the entrepreneur for organisation and management were the most valuable. Human progress was best attained by allowing entrepreneurs to gain control of as much of business as they could manage. That they accumulated great wealth in the process was the inevitable counterpart of this. Having explained and morally justified the accumulation of wealth, Carnegie turned to the question what should be done with this wealth. In a later pamphlet (1906), Carnegie would underscore that great fortunes were not only built by individual skill, but that the industrialists like himself had the community, and natural evolution, to thank. None of the great industrialists of the United States would have made it if demography had not served them. Therefore, the great

⁷² The leading biography on Carnegie is Nasaw, *Carnegie*. Other main sources include Burton Hendrick, *The Life of Andrew Carnegie* (Garden City, N.Y., 1932) and Joseph Frazier Wall, *Andrew Carnegie* (Pittsburgh, 1984) as well as Carnegie's *Autobiography*.

⁷³ Herbert Spencer, *Social Statistics* (London, 1851); idem, *An Autobiography* (2 vols., New York, 1904); idem, *First Principles* (London, 1862).

capitalists were rather trustees of their fortune, which truly came from the community. The capitalist should return his fortune to the community. According to Carnegie, it was a daunting task to do so in a way which assured the money was put to good purpose. It needed the very same talents of organisation and management to spend a fortune wisely that had allowed accumulating it in the first instance. This was the true meaning behind Carnegie's much repeated dictum that 'it requires the exercise of not less ability than that which acquired the wealth to use it so as to be really beneficial to the community'. For this reason, it should be left to the successful entrepreneurs themselves to spend it to good purpose. Carnegie thus opposed taxing fortunes. He did, however, defend an inheritance task, as 'the man who dies leaving behind him millions of available wealth, which was his to administer during life, will pass away "unwept, unhonoured and unsung"'.⁷⁴

In 1901, Carnegie succeeded in selling his company. His part of the proceedings amounted to \$ 226 million or some \$ 120 billion today, making him effectively the richest man in the world.⁷⁵ Carnegie, who had already made important donations for many years, now could devote himself entirely to walking the path of the 'Gospel of Wealth'. Over the rest of his life, he would donate no less than \$ 350 million, leaving the remaining \$ 20 million after having provided for his wife Louise Whitfield (1857-1946) and daughter Margaret (1897-1990) to the Carnegie Corporation, his default fund for good causes.⁷⁶ His donations were of a great variety, from public libraries (over 2,500) over church organs, theatre and music halls, swimming pools, the simplification of spelling to universities and colleges in the United States and Britain, and the great cause of peace. To his philanthropy, Carnegie applied two maxims, which both derived from the principle on which he built his fortune: having others work towards his goals. The first maxim implied that Carnegie, in making a donation, would set a clear purpose but then leave the management of the donation to others and not interfere any more. The second was that the beneficiary of the donation would also contribute towards the achievement of the goal. Carnegie would donate money to local authorities to build a public library only if they would invest money for the books and the upkeep. As Carnegie liked to say himself, he rather forced people to give than he gave himself.⁷⁷

⁷⁴ Andrew Carnegie, *The "Gospel of Wealth" Essays and Other Writings* (London, 2006).

⁷⁵ Nasaw, *Carnegie*, 587.

⁷⁶ Nasaw, *Carnegie*, 801.

⁷⁷ Nasaw, *Carnegie*, 605-6. 'I do not wish to be remembered for what I have given, but for that which I have persuaded others to give', quoted from Hendrick, *Carnegie*, 203.

When White approached Carnegie in the spring of 1900 about a donation towards a palace of peace at The Hague, Carnegie had already been involved with the cause of peace for some time. Carnegie's interest in the peace, and more particular the 'peace through law' movement had been awakened at the time of the *Alabama Case* when his business had suffered from the instability the conflict with Britain brought.⁷⁸ In 1887, Carnegie, at the request of Cremer, endeavoured for a delegation of British Members of Parliaments to be received by President Grover Cleveland (1837-1908) to discuss arbitration. Carnegie's efforts were successful and on 31 October the delegation was received, with Carnegie present.⁷⁹ In 1898, Carnegie virulently turned against President William McKinley (1843-1901) on the Spanish-American War and the annexation of the Philippines, which brought him on a collision course with the Republican Party to which he adhered. By the time White forwarded Martens' suggestion, Carnegie had been making small annual contributions to several religious and secular peace societies for years, but had not yet truly stepped forward in the movement as he would do from 1903 onwards. Nor had he made a big donation for fear his money would corrupt the cause or might not be put to effective purpose.⁸⁰

After having made his suggestion by letter to Carnegie in June 1900, White had been unable to pursue the topic as he did not make it to Skibo that summer. In August 1901, Frederick Holls, who had been secretary to the American delegation at the Peace Conference and was now a member of the Permanent Court, visited the Carnegies at Skibo. To the subject of a 'Temple of Peace', Carnegie replied that the idea was premature and that it would be presumptuous for a private person as himself to take the initiative. Holls also made the suggestion for a library of international law for the Court. According to him, Carnegie was willing to donate \$ 250,000 towards this end. When White visited Skibo in September, the subject was not brought any further. Meanwhile, Holls, emboldened by his conversation at Skibo, set out feelers about a donation towards 'a building and a library' in Dutch government circles without mentioning Carnegie's name. After having received a report about these talks in April 1902, Carnegie decided that he would visit The Hague incognito. When did this not prove possible, he sent William Stead. Stead's two visits in July and September 1902 to The Hague did not yet allay Carnegie's two major worries. Firstly, he did not want to take the

⁷⁸ Andrew Carnegie, 'Pacifism: International Arbitration' (1910) in Joseph Frazier Wall (ed.), *Andrew Carnegie Reader* (Pittsburgh, 1992) 308.

⁷⁹ Carnegie, *Autobiography*, 283; Letter of Andrew Carnegie to the Trustees of the Carnegie Endowment for International Peace, 14 December 1910 in *Yearbook of the Carnegie Endowment* (1919) No. 8, 2.

⁸⁰ Nasaw, *Carnegie*, 648-9 and 716.

initiative towards the Dutch government as this would be presumptuous. This had the potential of a stalemate, as it seemed unlikely that the Dutch government would approach Carnegie on its own initiative. Secondly, in line with his general maxims of philanthropy, he wanted the Dutch government to take responsibility for the choice of a site and the building process itself. That responsibility had to lay with the government and not with the local authorities at The Hague. This demand had everything to do with Carnegie's bad experiences with local authorities and their alleged propensity to controversy and prevarication. In the summer, White stepped back into the picture. Whereas Holls and Stead were working for a smaller building for the Permanent Court and a general library on international law – the total sum of \$ 350,000 was now mentioned, 100,000 for the court building and 250,000 for the library – White returned to the grander scheme of a Temple of Peace, a symbol of peace, a home for the Court and for future courts as well as a venue for new conferences. In his letter of 5 August 1902, White likened this to the temple of Janus, but one which would have its doors opened in times of peace and closed in times of war. For this a sum of \$ 1 to 2 million would be needed.⁸¹

It was this plan which appealed to Carnegie. After Roosevelt referred the Venezuelan Debt Crisis to the Permanent Court on 26 December 1902, Carnegie was finally on board. After a meeting with the Dutch ambassador to the United States and several letters confirming the acceptance of Carnegie's conditions by the Dutch government, on 22 April 1903, Carnegie ordered his bank to pay out a draft by the Dutch government for \$ 1,5 million. In this way, he cleverly left it to the initiative of the Dutch government to collect the money.⁸² In the fall of 1903, the deed for the constitution of a foundation ('stichting'), which would be responsible for the building of the Peace Palace and would be supervised by a board consisting of Dutch cabinet ministers, was drawn up. There was a hiccup when Carnegie refused to sign the first draft which mentioned that the endowment would also be used towards the maintenance of the building. Carnegie feared that this would allow the member States to the Court to wriggle underneath their financial obligations. Only after this

⁸¹ Quoted in Lysen, 'History', 36.

⁸² Reproduced in Eyffinger, *The 1899 Hague Peace Conference*, 449. See letter of Ambassador Gevers to Carnegie from 16 April 1903 and from Carnegie to Gevers from 22 April 1903, Carnegie Foundation Archive, A. Wordingsgeschiedenis, a Verzameling van afschriften en stukken betrekking hebbende op den bouw en de inrichting van een gebouw voor het Permanent Hof van Arbitrage met eene Bibliotheek te 's Graveshage, voorafgegaan aan het optreden van het Bestuur van de Stichting.

interpretation of the words maintenance was expressly excluded,⁸³ could the Carnegie Foundation be established. The deed mentioned that the Foundation would be responsible for ‘the erection and maintenance of a building and a library for the use of the Permanent Court of Arbitration;’ the sum, however, was substantial enough to build a grand Peace Palace – or Temple, as Carnegie preferred it.⁸⁴

The choice of a site and the planning phase of the building became a veritable Calvary for the Carnegie Foundation. As one plan after another was wrecked by differences of opinion or local sensitivities, it took the Board to March 1905 to reach a final decision on the site for the building. At the end of 1904, Martens went as far as making a hardly veiled threat to the Dutch Foreign Minister that the member States might consider a move away from the Netherlands.⁸⁵ The Foundation organised an international contest for the design of the building, as Andrew Carnegie had suggested. Out of numerous contestants, the French architect Louis-Marie Cordonnier (1854-1940) was chosen. Doubts about the technical abilities and the availability on the site of the architect as well as a change of the building plans by the Board of Directors delayed the process again.⁸⁶

In 1906, a discussion arose between Andrew Carnegie and the Board of Directors of the Carnegie Foundation. The problems started when Van Karnebeek sent a letter to David Jayne Hill (1850-1932), the American ambassador at The Hague. In it he returned to the plan to create the very best library on international law at the Palace of Peace, making it the principal centre of the study of the field in the world. For this, a sum of \$ 500,000 was needed. He asked Hill to approach Carnegie for an additional donation. Carnegie reacted furiously. He claimed that the idea of such a library was new to him. The most that could be done was to establish ‘a collection of books bearing upon Peace, Arbitration and International Law (...) in one of the rooms’. For this, any surplus left over after the building was complete could be used.⁸⁷ Carnegie now delved deeper into the subject, and found to his shock that the

⁸³ By the addition ‘The words maintaining, maintenance in this agreement are not to be construed as relieving the signatory Powers to the Treaty of July 29th 1899 from the financial obligations incurred and so far discharged in connection with the Permanent Court of Arbitration,’ Deed of 2 November 1903, Carnegie Foundation Archive, A. Wordingsgeschiedenis, d. Deed.

⁸⁴ Deed, Art. 2.

⁸⁵ Letter of Martens to the Minister of Foreign Affairs, 18 December 1904, quoted in Lysen, ‘History’, 82-3.

⁸⁶ Minutes of the 35th to 43rd meetings (1906-1907) of the Board of Directors of the Carnegie Foundation, Carnegie Foundation Archive.

⁸⁷ Carnegie to Hill, 18 June 1906, Carnegie Foundation Archive, A. Wordingsgeschiedenis, c. Gedachtenwisseling met Mr. A. Carnegie 1905/06.

plans as they stood were, he claimed, for ‘the union of Temple of Peace and a library, or rather library and Temple of Peace.’ The Court itself was have too little space in the, in his view, far too grand building. He urged the board to return to the original purpose for which the money was given, a Temple of Peace which would house the Court and future international courts and institutions.⁸⁸ After the Board of Directors had pointed out to Carnegie that the deed of the foundations itself mentioned ‘a Courthouse and Library for the Court of Arbitration,’ Carnegie relaxed a bit. He stated that he had not, as was his custom, burdened himself with all details in the past and had not read all the papers and letters himself, but that in any case the only mentioning of a library he could remember was the suggestion by Holls for a donation of \$ 25,000 to \$ 50,000 for a collection for the Permanent Court – thus having apparently erased Holls’ suggestion for a grand library from his memory. But having read all the pieces now, he could understand how the Board came to its interpretation. Here Carnegie hit the nail. Indeed, the confusion on what kind of library – a smaller collection for the use of the court or a general library on international law – was envisioned stemmed from the first conversations on the Carnegie gift Holls had conducted at Skibo and in The Hague back in 1901. These talks had involved a plan wherein the library had held a much bigger place than in White’s plan for a ‘Temple of Peace’ which Carnegie had embraced at the end of 1902. As Carnegie had neglected to make any statement of what kind of library he envisioned at the time of his donation, the two different schemes had been allowed to simmer, each on its own side of the Atlantic. In any case, Carnegie would not make an additional donation. He ended by saying that he found the Temple of Peace ‘a structure too holy to be connected with anything else’, but in the end, he left matters to the Board as he always did.⁸⁹ After a meeting with Hill, Carnegie relented further, stating that he now understood the purpose of the library as a necessary complement to the Court better. He reiterated that any surplus of the donation could be used towards a library. He did not repeat his view from his earlier letters that this would be a ‘suitable room’ and no more.⁹⁰ Thus the discussion ended, leaving the Board free to pursue its plans. The episode is telling for Carnegie’s view on the building. To him this was to house the Court, future courts and conferences, but most of all it was to be the symbol of ‘peace through law’, even a kind of centre of a secular cult of peace. Part of his unease had to do with his standard policy only to donate money for buildings and not for their upkeep or – as in case of public libraries – for

⁸⁸ Letter of Carnegie to Hill, 20 June 1906.

⁸⁹ Letter of Carnegie to Hill, 10 July 1906.

⁹⁰ Letter of Carnegie to Hill, 13 August 1906.

books. But Carnegie was also obviously concerned that the existing plans, which allotted half the building to the library and left a relatively small part to the Permanent Court, indicated a lack of belief in the future of the Court.⁹¹

The delays in the planning phase of the building did not prevent that all was ready for laying the foundational stone of the Peace Palace during the Second Hague Peace Conference in 1907. This time, the initiative for the conference came from the peace movement, in particular its American branch. In the years between the two conferences, tensions between the great powers escalated. The French retreat at Fashoda, the Boer War (1899-1902), Russia's unexpected defeat against Japan (1904-1905) and Germany's ascent as an economic and military power combined with its aggressive diplomacy made Britain shift its strategic stance. Not only did it further enhance its own strength by new reforms of the army and the navy, by new armament programmes – such as the launching of the Dreadnought class of battleships – and by sharing out more responsibility of imperial defence to the white settler colonies. But Britain also finally acknowledged that in a future war it would have to fight Germany. In 1904, Britain forged the *Entente Cordiale* with France, which was in fact an agreement to lay strategic tensions between the power to rest by recognising one another's rights over respectively Egypt and Morocco. In 1906, Anglo-French military staff talks started. A year later, an agreement with Russia was made over Persia. Thus the *Triple Entente* was born. The fault lines for a future war were now clear, regardless of simmering tensions over imperial issues between Britain and Russia. The European system had lost much of the flexibility that allowed statesmen to step back from the chasm of war. Now that there was little room for gains in terms of allies, the armaments race took off at full speed. After its victory over Spain in 1898, the United States of America had quickly moved to the centre of world diplomacy. The naval build up under President Roosevelt made the economic giant into a military one. Roosevelt's successful mediation in the Japanese-Russian War confirmed America's position as a first rate power. Since the *Alabama Case*, fears for a new American-British war had receded and a strategic partnership, with the American navy liberating the British navy of concerns at its backdoor, factually emerged between London and Washington.⁹²

⁹¹ Letter of Carnegie to Hill, 18 June 1906. Furthermore, one can surmise that to Carnegie, who would donate money for over 2,500 libraries, did want to be his Temple of Peace to be something entirely different from a library.

⁹² Kissinger, *Diplomacy*, 168-200; Simms, *Europe*, 268-80; Taylor, *Struggle for Mastery*, 372-447.

Against this backdrop, the pressure of the peace movement for new steps, and for a new peace conference, rose. The push that tipped the scales came from the United States. In America, the ‘peace through law’ movement was particularly strong and influential in government circles. Notwithstanding the defeat of the 1897 Arbitration Treaty with Britain in the Senate, arbitration remained high on the political agenda. Roosevelt made use of it in several tense situations. Since the *Alabama Case*, arbitration had proved itself a good instrument to manage tactical discussions in the strategic partnership with Britain or in the hegemonic relationship with Latin-American countries.

In 1903, the American Peace Society petitioned Congress to authorise the President to convene an international peace conference. A year later, at the invitation of the American Congress, the Inter-Parliamentary Union held its annual meeting at Saint Louis. During a meeting with Roosevelt at the White House, Roosevelt was presented by the Union with a request to convene an international peace conference. Roosevelt acted upon it and had his Secretary of State, John Hay (1838-1905), issue a circular to the nations of the world (21 October 1904).⁹³ After his mediation of the Peace of Portsmouth of 5 September 1905 between Japan and Russia, Roosevelt graciously handed over the initiative to the Tsar. During the negotiations about the programme, Britain and the United States worked towards having disarmament on the agenda. In the face of German resistance against a round of disarmament talks, it was agreed that it would not be on the agenda but that if a country made a proposition on it, it could be briefly debated but that nothing would come from it.⁹⁴

The Second Hague Peace Conference, which gathered at the *Binnenhof* in The Hague in June 1907, was attended by delegations from 44 nations, the newcomers being almost all Latin-American countries.⁹⁵ The conference did not achieve anything in relation to disarmament – except for a resolution on the desirability of a reduction which was carried in the absence of the German delegation. Its greatest successes lay in the field of the codification of the laws of war – in particular in relation to maritime warfare and neutrality – and in the acceptance of the Calvo-Drago doctrine which excludes the use of force for the recovery of

⁹³ Reproduced in Arthur Eyffinger, *The 1907 Hague Peace Conference. “The Conscience of the Civilized World”* (The Hague, 2007) 65.

⁹⁴ Eyffinger, *The 1907 Hague Peace Conference*, 62-80; Pustagarov, *Our Martens*, 298-314; Tate, *Disarmament Illusion*, 294-342.

⁹⁵ A.A. Cançado Trindade, ‘The Presence and Participation of Latin America at the Second Hague Peace Conference of 1907’ in Daudet, *Actualité*, 51-84.

contract debt.⁹⁶ The Final Act of the Conference endorsed the principle of obligatory arbitration for the settlement of international disputes. Even if, in the face of resistance by chiefly Germany but also Belgium, the idea could not be carried into effect in the new Convention for the Pacific Settlement of International Disputes of 18 October 1907, at least it had gained far more acceptance in the 8 years which had lapsed since the First Hague Conference.⁹⁷ The conference came close to establishing a Permanent Court of Arbitral Justice, next to the existing Permanent Court of Arbitration. This would be a real permanent court with a fixed bench of trained lawyers. The project was not carried because of disagreement over the representation of the smaller powers on the bench and its formal acceptance was relayed to the time that this problem would be solved. The new court was to have its seat at The Hague.⁹⁸ The establishment of the International Prize Court, although the relevant convention was carried by a majority of the nations present, in the end failed for much the same reason.⁹⁹

The greatest merit of the Second Hague Conference, apart from the important steps taken in the codification of the laws of war, was that it had taken place and thus affirmed the place of the ‘peace through law’ idea on the scene of great power diplomacy. That place was a marginal one, even more so than in 1899, but the peace movement could draw hope from the fact that progress was still possible and that strong support came from the rising power on the other side of the Atlantic.¹⁰⁰

⁹⁶ Ian Brownlie, *International Law and the Use of Force by States* (Oxford, 1963) 225-6; Neff, *War and the Law of Nations*, 238-9.

⁹⁷ Eyffinger, *Second Hague Peace Conference*, 108. See Final act of the Second Hague Peace Conference, 18 October 1907, reproduced in Rosenne, *Hague Peace Conferences*, 401-12; also see Convention for the Pacific Settlement of International Disputes, 18 October 1907, Art. 38 in *ibidem*, 437-46: (...) ‘Consequently, it would be desirable that, in disputes about the above-mentioned questions, the Contracting Powers should, if the case arose, have recourse to arbitration, in so far as circumstances permit’. This sentence was added to the original Article 16 from the 1899 Convention of 29 July 1899, in *ibidem*, 415-36.

⁹⁸ James Brown Scott, *Judicial Settlement of International Disputes. No 15-16. The Status of the International Court of Justice with an appendix of addresses and official documents* (Baltimore, 1914); idem (ed.), *The Project Relative to a Court of Arbitral Justice: Draft Convention and Report Adopted by the Second Hague Peace Conference of 1907* (Washington, 1920); Verzijl, *International Law in Historical Perspective*, vol. 8, 344-5.

⁹⁹ Charles Noble Gregory, ‘The Proposed International Prize Court and Some of its Difficulties’, *American Journal of International Law*, 2 (1908) 458-75; Verzijl, *International Law in Historical Perspective*, vol. 8, 345-8.

¹⁰⁰ On the 1907 Conference: Calvin Dearmond Davis, *The United States and the Second Hague Peace Conference: American Diplomacy and International Organization, 1899-1944* (Durham, N.C., 1975); Dülffer,

6. Epilogue

It is tantalising to think of the opening of the Peace Palace as the moment of highest accomplishment in Andrew Carnegie's strife of peace, if not his entire life. Indeed, in his speech, Foreign Minister Marees van Swinderen went as far as stating that Carnegie must be the happiest man present.¹⁰¹ This seemed to be more than an instance of self-gratification on the part of a representative of The Hague's elite, as Carnegie's wife Louise voiced much the same feeling about her husband in her diary.¹⁰² Indeed, Carnegie felt most elated by the warm reception and the attention bestowed upon him and was most proud of the accomplishment towards peace at The Hague. But his visit to The Hague only gave him momentary elation before he hasted back to the other, more important battlefields of the relentless crusade for peace he had tasked himself with over the last ten years.

Since 1903, Carnegie had moved himself to the forefront of the fight for peace in the United States. Whereas he became an active member of the institutionalised peace movement, his main endeavour was to use his clout to personally lobby American and other world leaders. For all his believes in 'peace through law', Carnegie thought progress was best made in the corridors of power, to which he had or forced access. In his crusade of peace, Carnegie showed great stamina, which was constantly fuelled by his inbred optimism and his Darwinist belief that peace was the next step to be set in mankind's evolution. Carnegie was also a man not accustomed to taking no for an answer. To him political influence and ultimately peace were commodities that could be bought.

Over the years, Carnegie did not limit himself to lobbying American presidents – often in the most patronising ways – but also regularly tried to influence the politics of his native Britain. He was a firm believer in American-British cooperation, which he saw as a first step

Regeln gegen den Krieg; Eyffinger, *The 1907 Hague Peace Conference*; Dorothy V. Jones, *Towards a Just World: The Critical Years in the Search for International Justice* (Chicago, 2002); Scott, *The Hague Conventions and Declarations of 1899 and 1907*; idem, *The Reports of the Hague Conferences of 1899 and 1907*; idem, *Proceedings of the Hague Peace Conferences*, vol. 2; idem, *The Hague Conferences of 1899 and 1907: A Series of Lectures*.

¹⁰¹ *Inauguration du Palais de la Paix le 28 Août 1913. Discours de Mr. R. de Marees van Swinderen, Président du Conseil Administratif de la Court Permanente d'Arbitrage, Ministre des Affaires Etrangères* (The Hague, 1913) 4.

¹⁰² Nasaw, *Carnegie*, 773.

towards his cherished League of Peace, a kind of permanent alliance of great powers with would uphold peace through a system of collective security.¹⁰³ He also believed that the Anglo-American league could naturally be extended to Germany, as he considered the Germans the closest of kin to the English-speaking peoples. In both 1907 and 1913, Carnegie set himself upon a self-appointed mission to visit the German Emperor and try to bring him to the side of peace. His two visits ended with nothing, except that Carnegie felt gratified by the attention bestowed upon him by the Emperor and was confirmed in his positive impressions of the Emperor as a peace-loving man. As late as 1914, he expressed in his autobiography the hope that Wilhelm II, after having secured internal peace in Germany, would prove himself the peace-maker of the world.¹⁰⁴

Carnegie committed himself to the main points of the ‘peace through law’ movement, disarmament and arbitration. In the years before the Second Hague Peace Conference, he repeatedly intervened with President Roosevelt and the new Secretary of State, Elihu Root (1845-1937), the Founding President of the American Society of International Law, about the programme of the Conference. Carnegie was even present at The Hague as a private citizen during part of the Conference. Carnegie gave great vocal and political support to the fight for arbitration in the United States. President Roosevelt and William Taft (1857-1930) thanked the generous support of Carnegie for their re-election for a great part on their stance on arbitration and their attempts to make new arbitration treaties and pass them through the Senate. Even the Democrat Woodrow Wilson, after becoming president in 1913, could count on praise and support from Carnegie in this. Carnegie donated money for the buildings of the headquarters of the Pan-American Union and the Central-American Court, his two other ‘Temples of Peace’.

Over the years, Carnegie kept trying every alley to influence high power politics in the service of disarmament. One of his most visible schemes was to arm-wrestle former President Roosevelt in touring the courts and governments of Europe – with the main stop at Berlin – in 1910 by first funding his hunting safari in Africa. Some elephants thus lost their lives in the war for peace. In 1910, Carnegie made his biggest financial contribution (\$ 10 million) to the cause of peace by founding the Carnegie Endowment for International Peace, of which Elihu Root became President and James Brown Scott (1866-1943) secretary. After the Endowment, which purpose was mainly academic, refused to serve Carnegie’s more activist approach

¹⁰³ Andrew Carnegie, *A League of Peace. A Rectoral Address Delivered to the Students in the University of St. Andrews 17th October, 1905* (New York, 1911, repr. New York, 2013).

¹⁰⁴ Carnegie, *Autobiography*, 370-1.

towards arbitration, Carnegie founded the Church Peace Union in 1914, with a donation of \$ 2 million.¹⁰⁵ All in all, Carnegie donated \$ 25 million to the cause of peace, or some \$ 10 billion today.¹⁰⁶

Carnegie's personal crusade for peace is a reminder that in the years before the Great War, the strife for structural peace was high on the agenda of public opinion, public diplomacy and at times even diplomacy at large. In this fight, international law had moved centre-stage as it had become the instrument of choice of the reformist moderates to make incremental progress. As disarmament proved too difficult, arbitration became the preferred weapon of peace activists to stop war. The actions of a Russian tsar, a Russian international lawyer and an American industrialist focused the arbitration movement on The Hague. In the end, it was Woodrow Wilson, strong on his victory in the Great War, who allowed the great work of 'peace through law' to be retaken and to return to The Hague. In this light, the final words Carnegie wrote in his autobiography after having expressed his hopes for Wilhelm II are worth quoting:

...

As I read this to-day, what a change! The world convulsed by war as never before! Men slaying each other like wild beasts! I dare not relinquish hope. In recent days I see another ruler coming forward upon the world stage, who may prove himself the immortal one. The man who vindicated his country's honor in the Panama Canal toll dispute is now President. He has the indomitable will of genius, and true hope which we are told, 'Kings it makes gods, and meaner creatures king'. Nothing is impossible to genius! Watch President Wilson! He has Scotch blood in his veins.¹⁰⁷

But for Carnegie, it was too late. In 1915, after having relentlessly fought for the cause of peace for a decade, he finally gave up hope; his heart broke. He withdrew from public life and

¹⁰⁵ I am grateful to Katharina Rietzler (Cambridge) for allowing me to read a draft of her upcoming article 'Fortunes of a Profession: American Foundations and the International Law Community, 1910-1936'.

¹⁰⁶ Carnegie, *Autobiography*, 282-371; Nasaw, *Carnegie*, 648-716; 724-789; idem, *The Continuing Relevance of Andrew Carnegie's Legacy* (The Hague, 2012); David S. Patterson, 'Andrew Carnegie's Quest for World Peace', *Proceedings of the American Philosophical Society* 114, No. 5 (1970). Thanks to Katharina Rietzler for allowing access to her unpublished PhD thesis, *American Foundations and the 'Scientific Study' of International Relations in Europe, 1910-1940* (University College London, 2009).

¹⁰⁷ Carnegie, *Autobiography*, 371-2.

withered away.¹⁰⁸ When he died on 11 August 1919, the decision to found the League of Nations with a Permanent Court of International Justice had been made. In the years before 1914, Carnegie and the peace movement had lost the battle in the corridors of power to influence the world of high diplomacy. But in fighting their ‘war for peace’, they had stumbled upon the path of international arbitration and adjudication, a path, that although it did not lead straight to lasting peace, promised to bring the goal closer, curve by curve. This was the path taken at The Hague, away from the halls of high power politics. It was a path that after 1919 proved not to be blocked and would curve on. In giving up hope in 1915, Carnegie had been, after all, ‘right for the moment, but wrong for the ages’.¹⁰⁹

7. *Summary by way of conclusion*

The 19th-century international peace movement sprang from the reaction against the devastation and horror the Napoleonic Wars and the War of 1812 had wrought. It had its roots in Anglo-American nonconformist protestant circles, but quickly spread over the globe and became more pluralist and then secular. All through the century and beyond, British and American peace activists dominated the movement and set its agenda. During the later quarter of the century, the peace movement gained more political influence thanks to its alliance with the emerging discipline of international law. This was, again, particularly true for Britain, and most of all, the United States. Two major points stood out on the agenda of the ‘peace through law’ movement: disarmament and arbitration.

Whereas the movement could attain very little to nothing in relation to disarmament in the years before the Great War, the movement found allies in political circles to foster the cause of arbitration. In the United States, Britain and the Latin-American Republics, arbitration moved up the agenda of foreign policy makers and diplomats after the successful *Alabama Award* in 1872. The *Alabama Case* had shown arbitration to be an appropriate instrument to manage tactical disputes among States which wanted to avoid strategic clashes.

In 1899, the cause of ‘peace through law’ scored an unexpected success. The Hague Conference, which first had been called by the Russian government for reasons of high power politics, had – to a large extent thanks to the endeavours of the Russian international lawyer

¹⁰⁸ Nasaw, *Carnegie*, 788-98.

¹⁰⁹ Paraphrase of the opposite statement from Joseph J. Ellis, *Founding Brothers* (New York, 2002) 248.

Fyodor Martens – been hijacked for the ‘peace through law’ agenda when these reasons dissipated. One of the main outcomes was the establishment of the Permanent Court of Arbitration at The Hague. In 1903, the American industrialist turned philanthropist, Andrew Carnegie, made a lavish gift to build a ‘Temple of Peace’ for the Court at The Hague. It can be said, with the benefit of hindsight, that this set the destiny of The Hague as legal capital of the world in stone.

To Carnegie and many other peace activists, the foundation of the Permanent Court was an important step towards the banning of war and its replacement by arbitration and adjudication. As events would show, this was not to be. Over the following years, the peace movement proved unable to influence the world of high diplomacy and turn it away from its course of confrontation or from the armaments race. But at The Hague, a seed was planted which would survive the great conflagration of 1914-1918 and start to grow after 1919, the seed that carried the promise that international justice can be *an* alternative for war and that, sometimes, right would win over might.

Theses

1. The origins of The Hague’s position as ‘legal capital of the world’ are to be sought in the foundation of the Permanent Court of Arbitration in 1899 and Carnegie’s gift and not in any prior historic role of The Hague as a city of ‘peace and justice’.
2. The First Hague Peace Conference and its results were the fortuitous outcome of the dissipation of the Russian government’s strategic reasons to call the conference (disarmament) and Professor Fyodor Martens’ move to change the original agenda into that of the ‘peace through law’ movement. The peace movement had been allowed to hijack the conference.
3. Andrew Carnegie had not intended to donate money for a general library of international law. That such a library was created, is the happy outcome of the fact that two different views on the matter could coexist for three crucial years (1903-1906). This confusion can be explained but was also resolved by Carnegie’s consequential position not to meddle with the details of his donation.
4. ‘The Hague, legal capital of the world’ embodies the 19th-century peace movement’s greatest success. It was made possible by the coming together of the movement’s aspirations with the foreign policy agenda of some countries, in particular the United States.